



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/151878

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 4, 2013, under Wis. Stat., §49.45(5)(a), to review a decision by Milwaukee Enrollment Services to discontinue Medical Assistance (MA), a hearing was held on October 2, 2013, by telephone.

The issue for determination is whether petitioner is subject to BadgerCare Plus (BC+) restrictive re-enrollment due to not paying a premium.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Katherine May  
Milwaukee Enrollment Services  
1220 W. Vliet St.  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. In 2012 petitioner received BC+ for herself and two children. On September 28, 2012, the agency sent petitioner a notice informing her that she was required to pay a \$118 premium for her own eligibility for November, 2012.
3. On November 8, 2012 petitioner reported that she was pregnant. The worker told her that she would be shifted to BC+ pregnancy when she verified the pregnancy.

4. By a notice dated November 19, 2012, the agency informed petitioner that BC+ for her would end effective December 1, 2012 and she would be ineligible for 12 months because she did not pay her premium.
5. On November 21, 2012, the agency sent a second notice telling petitioner that her BC+ would end because she had not provided verification.
6. On November 30, 2012, petitioner contacted the agency to inquire why her BC+ was ending and the worker responded that she had not verified her pregnancy. Petitioner stated that she had a doctor appointment the next Monday. After the appointment petitioner verified the pregnancy. By a notice dated December 10, 2012, petitioner was reinstated to BC+ effective January 1, 2013. Petitioner was ineligible for BC+ in December, 2012. She did not pay the November, 2012 premium.
7. Petitioner remained eligible for BC+ through the end of August, 2013, when her 60-day post-birth extension ended. By a notice dated August 8, 2013, the agency informed petitioner that her BC+ would end September 1 because of a 12-month restrictive re-enrollment penalty.

### DISCUSSION

BC+ recipients must pay a monthly premium based upon income. If a recipient does not pay the monthly payment before the month after the end of the benefit month, the recipient may be ineligible for the program for twelve months. Wis. Admin. Code, §DHS 103.085(3); BC+ Handbook, Appendix 19.8.1. The penalty for missing the premium is called “restrictive re-enrollment.”

Once a person is in restrictive re-enrollment, the entire penalty period must be served unless household income drops below the level for which a premium is required. Handbook, App. 19.11.2.

Petitioner was removed from restrictive re-enrollment because she was pregnant. I am not sure if that was correct because nowhere in the Handbook does it say that a pregnant woman is exempt from the penalty. Appendix 8.1 states that she does not have to pay a premium, but it says nothing about restrictive re-enrollment. Nevertheless it is evident that once a woman is coded as being pregnant, she gains full MA as a pregnant woman not subject to premiums. I take it then that since restrictive re-enrollment is related to premiums, the Department allows pregnant women to be eligible for BC+ even if they otherwise would be subject to restrictive re-enrollment.

In this case petitioner had a premium in November, 2012 that she did not pay. She was notified that BC+ would close December 1, 2012, and she would be subject to restrictive re-enrollment. In the meantime she notified the agency that she was pregnant, but she did not verify the pregnancy until December, so the pregnancy BC+ did not start until January 1, 2013. Petitioner was notified about the restrictive re-enrollment by a November 19, 2012 notice. On December 10, 2012, the agency notified her that she was eligible for BC+ again effective January 1, 2013. Petitioner did not appeal either of those notices.

An appeal of a negative action concerning MA must be filed within 45 days of the action. Wis. Stat. §49.45(5)(a); Income Maintenance Manual, §3.3.2. Language concerning the right to appeal and the time limit is included on all department notices. The December 10, 2012 notice told petitioner that if she disagreed with any part of the action she would appeal by February 18, 2013.

When petitioner’s pregnancy BC+ ended September 1, 2013, she reverted back to her pre-pregnancy status of restrictive re-enrollment. That status will continue until December 1, 2013. I can find no error by the agency. Petitioner’s major complaints were about confusion back in 2012 (she testified that she verified the pregnancy in early November but it is clear from the case notes that she did not do so until

early December). However, any complaints about the status in 2012 would have had to be appealed by February 18, 2013. Because there was no appeal then, I cannot now go back on fix any problems that occurred then. At this point the only issue is whether the agency correctly *returned* petitioner to the restrictive re-enrollment that started in December, 2012. I must find that it did so correctly.

### **CONCLUSIONS OF LAW**

The agency correctly re-started petitioner's restrictive re-enrollment when her pregnancy extension ended September 1, 2013.

**THEREFORE, it is ORDERED**

That the petition for review herein be and the same is hereby dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,  
Wisconsin, this 8th day of October, 2013

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\sBrian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 8, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability